

Democratic colleagues of mine who have come out to the floor to speak about the Patients' Bill of Rights and the need to move forth with that. I think I am correct, but in listening to National Public Radio this morning, I heard that the American Medical Association was meeting and that one of the matters under discussion was the right of physicians to unionize. Since you cannot replay NPR, or ask for a repeat, I had to just hear what I heard; I think I heard it correctly. That is an amazing thing. I know physicians have been unionizing in Arizona and places where one would expect it. But to have the American Medical Association actually considering that, and the President, Dr. Dickie, a woman, discussing the frustration of physicians with their ability to give health care to their patients in a way that they believe and, in fact, were trained to do is extraordinary.

I could name any group in the world that would be looking for a place to find a union and I would put physicians among the very last. But, evidently, it is not that way. That in itself is an extraordinary call for this Congress to move forward with health care. The call comes from the American people also. They are calling for action on our part because of their sense of deep dissatisfaction.

Last year, we were told there wasn't enough time to take up a Patients' Bill of Rights. I don't think that could be the case this year, since time seems to be mostly what we have, and therefore one might conclude there might be a lack of willingness to take up a Patients' Bill of Rights this year. So we have to keep our priorities straight. I intend to, and I think a lot of my colleagues on both sides of the aisle feel that way.

Every single day that passes without enactment of patient protections is another day that millions of Americans, and thousands of the people I represent from West Virginia, are subject to the denial of needed treatments because of the instinct of insurance companies to go to their bottom line and stay there. Every single day that we, as a Congress, fail to act on the Patients' Bill of Rights is another day that Americans are left vulnerable to health care decisions that are made perhaps not by their doctors, as they wish, but by business executives, or by boards, or people at the end of 1-800 numbers. We used to talk about this years ago, and we agreed it was a terrible thing and it had to stop. We were all going to do that, except that we have not. We just haven't.

Every day we don't act, Americans are refused, No. 1, the specialty treatments they need and deserve; No. 2, the ability to use any emergency room.

Imagine that. The Senator from Illinois is here. This Senator remembers being in Chicago a number of years

ago, for whatever purpose, and I was told that six emergency rooms in the city of Chicago were closed, and there were relatively few left. That is one of the largest cities in all of America. Emergency rooms are the most expensive form of health care, and they are always the things closed down when business decisions are dominating hospitals.

On the other hand, the only way, having 43 million, 44 million, 45 million uninsured Americans, they can get health insurance is by going to emergency rooms. They have to have that right. It has to be accessible to them, not just somewhere out in the next State, or on the other side of the Mississippi River but accessible so they can get to it.

Third, they have to have the right to appeal the decision of their health care plans. It is a basic right. I will talk more about it.

Fourth, they should have the ability to ensure that medical decisions are made by their doctors, not by a board of executives.

We all know that managed care has changed the way health care is done in this country. We started saying that in the Finance Committee 10 or 12 years ago. The question was, Does managed care save money for 1 year or 2 years? The general consensus was that managed care would save money for about 2 years, then it would come up against a hard wall and people would have to start cutting. That was the general consensus then. It is clearly showing itself to be even more the case now. That is for both delivery and the payment of health care in our country.

Obviously, a lot of problems have been created along the way. Americans are very dissatisfied with the quality of their health care. They make their feelings about that very clear. They don't like their lack of choice. They don't like the indiscriminate nature of insurance company decisionmaking.

Meanwhile, physicians often have, from their point of view—and from my point of view—much too little input into health care decisions, and hence the NPR story this morning. They believe so strongly that they are doing something, which is an anathema, it would seem to me, to any physician. But they are evidently doing this, or they are voting on that as a matter of "doctor rights," or whatever, at the American Medical Association meeting.

I think doctors think they face too much interference from the insurance companies. Patients and doctors alike see health care decisions driven by the financial concerns of something called health plans. What do we have to do? We have to guarantee access to specialty care. I hear it all the time. We all hear it all the time in our homes and wherever we go.

Under managed care plans—most of them, not all of them—the patient's

primary care physician may refer a patient to a specialist if they determine that specialty care is necessary. However, things may change, if the specialist is not on the list of the plan.

Then you come to this amazing situation of trying to ask a consumer of health care to understand that they are allowed to go to a specialist, but they cannot because that specialist is not on their plan. Even the much criticized Clinton health care plan allowed that. You could always go outside your HIPAA. You could always go to your specialist, no matter where your specialist was. You could always go to your specialist. Under the present system of health care, you can't do that.

Then somebody from the "administrative office," or some other division, takes over this whole question of whether you can or whether you can't. Suddenly, the patient asks to see a specialist and finds out that the executives in charge are not doctors. They are not medical people. They refuse the right to go see a specialist. They refuse payment for the specialist who in fact was recommended by the patient's original primary care physician. That is wrong.

We must put an end to insurance company "gag rules." That is another point.

Patients need to trust the providers—that they are acting in the best interests of the patients. There cannot be a situation where HMOs preclude doctors from prescribing necessary treatments or making referrals to a specialist in the name of preserving the company's bottom line.

There is a sacred trust between a patient and a doctor. I don't have to elaborate on that. It is Norman Rockwell stuff. In fact, there are many, many. He did many pictures of it. It is the classic American situation—the trust between, the bond between, the patient and the doctor.

For the doctor to be second-guessed by an insurance company bureaucrat just doesn't make sense.

I have listened to literally hundreds of patients and doctors complain that managed care plans are making decisions about care, about what types of procedures are allowed and are not allowed, and this decision just creates a division between the patient and the doctor. The patient is confused. The doctor is angry. It is not right.

Another point: Real access to emergency room care 24 hours a day has to be. It has to be 7 days a week. Wherever they are, it has to be. They cannot be concerned about their insurance company second-guessing their health concerns.

Americans must be able to go to the nearest emergency room without the fear that they will not be able to afford it, and they must be able to receive all necessary care in that facility to take care of their situation.

In the United States of America we have been through this before. We are the only country in the world that doesn't have universal health insurance. If we don't have that, at least let's allow a Patients' Bill of Rights so that people can have—including those who are not insured—certain rights.

Another point: We must let people challenge the decisions made by HMOs and seek retribution when HMO decisions lead to harm.

Is that radical? No. That is a standard part of American life, except it is more important in a lot of American life because of the actual health and physical safety of a patient. When Americans go to a doctor, they should get the care they need. If they don't get it, they should have the means and the right to address disputes. They should not have to worry about insurance companies cutting that off.

A central element of the Democratic Patients' Bill of Rights is that point—the ability to hold health care plans accountable for the medical decisions that lead to harm.

The Republican plan fails to hold HMOs accountable. Under the Republican plan, the only remedy available when a patient is harmed by an HMO decision is recovery of the actual cost of a denied procedure, even if the patient is already dead or disabled for life.

Make no mistake. If we don't respond quickly and forcefully enough, more and more Americans are going to lose confidence in our system and in us. Already 90 percent of Americans are unhappy with their plan. Shocking, shocking. We can do something about it. I think we have a moral obligation to take up the Patients' Bill of Rights. We certainly have the time because we are not doing a whole lot of other things around here that I can put my hands on. I think it is time that Congress take up and pass these patient protections this year.

I yield the floor.

#### EXTENSION OF MORNING BUSINESS

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. Mr. President, in case others come to speak—I don't want to take that time—I ask unanimous consent to extend the time until 5:10, with the time equally divided.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### PATIENTS' BILL OF RIGHTS

Mr. WELLSTONE. Mr. President, I thank my colleague from West Virginia.

Let me try to talk about this in a more blunt way, not in a bitter way, but let me be direct about it.

I think it is just outrageous. Mr. President, you are a friend. I hate to

have such angry words. But we should be debating. Personally, I wish we were talking about universal health care coverage. The insurance industry took it off the table. They dominate too much of this political process.

I think Senator FEINGOLD and I, before this debate is over, will come out and just talk about the contributions from all the different parties that are affected by this health care legislation. We should be talking about universal health care coverage. But we certainly also should be talking about patient protection.

We have a system where the bottom line is becoming the only line. It is becoming the incorporated and industrialized system.

The Republicans say they have a plan—the Republican “patient protection plan”—which I think really is an insurance company protection plan. It covers about 48 million people. The people who aren't covered, because of the risk—they can't be covered, because they are in self-insured plans because of what the States do.

Our plan covers 163 million people.

No wonder my colleagues on the other side of the aisle don't want to debate this.

Second point: Who defines “medical necessity”?

Our plan makes it clear that the providers decide what the care should be for the consumer, for our children, for ourselves, for our loved ones. The Republican plan is not so clear on this question.

No wonder my colleagues don't want to have any debate.

Point of service option: I remember having an amendment in committee when we wrote this bill which at least would let people, if they are willing to pay a little more, be able to purchase care outside of the network, outside of the plan. If they need to go to see a specialist they hear about who would make such a difference and would give them the care they need, or for their loved one, we provide for that. The Republican plan—the insurance-company protection plan—doesn't.

No wonder they don't want to debate this.

Who does the review?

When you want to make an appeal and you say you have been denied the access to the physician you need to see, or your family can't get the care they need, do you have an external review process? Is there an ombudsman program back in our States? Make it grass roots. Do not talk about centralized public policy. Make it happen back in our States. An ombudsman program with external review, somewhere consumers can say: I have been denied the care I need.

The Republican insurance company protection plan doesn't provide for that. Our legislation does. We have a difference, America, between the two

parties, that makes a difference in your lives.

With all due respect, I understand why my colleagues on the other side of the aisle don't want to debate. The Senate is supposed to be the world's greatest deliberative body. Our colleagues on the other side of the aisle don't get the right to tell us that we won't be able to bring amendments to the floor, we won't be able to have a full-scale discussion, and we won't be able to have a thorough debate.

I can't wait for this debate. I introduced the patient protection bill 5 years ago, half a decade ago. This will be a great debate. I think the country will love this debate. The people in Minnesota and the people in our different States will say they are talking about a set of issues that are important to their lives.

The pendulum has swung too far in the direction of the big insurance companies that own and control most of the managed care plans in our country. Consumers want to know where they fit in. Ordinary citizens want to know where they fit in. The caregivers, the doctors and the nurses, want to know where they fit in. When they went to nursing school and when they went to medical school, they thought they would be able to make the decisions and provide people with care. Now they find they can't even practice the kind of medicine that they imagined they would practice when they were in medical school.

Demoralized caregivers are not good caregivers. We have demoralized doctors and nurses; we have consumers who are denied access to care they need; we have corporatized, bureaucratized bottom-line medicine, dominated by the insurance industry in this country.

We have a piece of legislation to at least provide patients with some protection and caregivers with some protection, and our Republican colleagues don't want to debate this. I am not surprised. I am not surprised.

On the other hand, you can't have it all ways. We wrote this bill in the Health, Education, Labor and Pension Committee. We had a pretty good markup where we sat down, wrote the bill, and had pretty good debate. I was disappointed that a lot of important amendments protecting consumers were defeated on a straight party vote.

Now it is time to bring this legislation to the floor. As a Senator from Minnesota, I say to Senator DASCHLE that I absolutely support what he is doing. I absolutely support what we are doing as Democrats. In fact, I am particularly proud right now to be a Democrat because I always feel a lot better when we are talking about issues that make a real difference to people's lives.

As far as I can tell, most of the people in our country are still focused on how to earn a decent living, how to